

OVERSIGHT BOARD AGENDA STAFF REPORT

TO: Honorable Chair and Members of the Oversight Board

FROM: Francesca Tucker-Schuyler, Executive Director of Successor Agency

SUBJECT: Request that the Oversight Board Approve the Transfer of Certain Properties to the City of Montebello and a Revised Long Range Property Management Plan

DATE: May 6, 2015

SUMMARY

The Montebello Successor Agency (“**Successor Agency**”) requests the Oversight Board approve:

- 1) Transfer of the following properties from the Successor Agency to the City (the “**Housing Properties**”) as “housing assets”: 112 S. 6th Street (APN # 6349-005-901); 114 S. 6th Street (APN # 6349-005-900); and 124 S. 6th Street (APN # 6349-005-902);
- 2) Transfer of the property located at 737 N Montebello Boulevard (APN # 5293-013-901), commonly known as “**Taylor Ranch**” to the City as a “governmental purpose” property; and
- 3) An amendment to the Successor Agency’s Long Range Property Management Plan (the “**Plan**”) to remove the above referenced properties, as well as a parcel currently owned by the City of Montebello (“**City**”) (North Montebello Boulevard (City Tower) – APN # 5293-001-800).

BACKGROUND

Upon dissolution of the Community Redevelopment Agency of the City of Montebello (“**Agency**”), its assets, properties, and buildings were transferred to the Successor Agency for management in accordance with Assembly Bill 1X 26 (as amended, the “**Dissolution Act**”).¹ The Dissolution Act divides former redevelopment agency (“**RDA(s)**”) real properties into three general (3) categories, and provides a different disposition process for each:

- Housing Properties – Properties acquired for low and moderate income housing purposes, with any source of funds, are to be transferred to the entity assuming the “housing-related” functions of the former RDA.² Such properties may be transferred either through

¹ Health & Safety Code § 34175(b).

² §§ 34176(e)(1); 34177(g).

the “housing asset list” process (which occurred in August 2012),³ or separately with Oversight Board and Department of Finance (“**DOF**”) approval.⁴

- **Governmental Purpose** – Properties constructed and used for a “governmental purpose” (which include roads, school buildings, parks, police and fire stations, libraries, and local agency administration buildings) are to be transferred to the appropriate government entity.⁵ Governmental purpose properties may be transferred either through the Long Range Property Management Plan (“**LRPMP**”),⁶ or with separate Oversight Board and DOF approval.⁷
- **All Others** – All other real properties (*i.e.* excluding all housing properties and transferred governmental purpose properties) must be included in the successor agency’s LRPMP, and disposed of consistent with the plan.⁸

DISCUSSION

On November 12, 2014, the Oversight Board approved the Successor Agency’s LRPMP (the “**Original Plan**”), which addressed the disposition of several properties. (Exhibit “A”.) Because the Successor Agency has not yet received its “finding of completion” from DOF, the Original Plan has not been submitted for DOF review. Based on the discussion below, the Successor Agency respectfully requests the Oversight Board remove the following properties from the Plan, and approve their immediate transfer to the City.

1) The City Tower Parcel

Property 2 in the Plan is identified as “North Montebello Boulevard (City Tower), (the “**City Tower Parcel**”). The City Tower Parcel is comprised of approximately 2.1 acres, and is improved with a City public safety communications tower and underground water reservoir. (Exhibit “A”, pg. 9.) To allow for continued use as a public safety communications tower, the Original Plan recommended transfer of the City Tower Parcel to the City as a “governmental purpose property.”

In anticipation of carrying out this and other transactions contemplated in the Original Plan, the City caused a subsequent title report to be completed for all Agency-owned properties. This process revealed that title to the City Tower Parcel is vested in the City, not the former Agency. (Exhibit “B” [Title Report], Exhibit “C” [Grant Deed].) As such the City Tower Parcel should not be included in the Plan, and the Successor Agency respectfully requests it be removed. Because title is already vested in the City, no affirmative transfer of title is requested or required.

2) The Housing Properties

The Housing Properties (identified above) were cumulatively included in the Original Plan as Property 3 and slated for liquidation. (Exhibit “A”, pp. 4.)

³ § 34176(a)(2).

⁴ § 34181(c), (f).

⁵ § 34181(a).

⁶ § 34191.5(c).

⁷ § 34181(a),(f).

⁸ § 34191.5.

However on December 3, 2014, the City received notice from the federal Department of Urban Development and Housing (“**HUD**”) that it was delinquent in obligations concerning a HOME Program loan it had issued in 2003. (Exhibit “D,” pp. 2-3; Exhibit “E,” pp. 9-10 [referencing finding 13]; see also Exhibit “F”, pp. 3 [referencing loan to Huntington Park CHDO].) In response to HUD’s findings the City reviewed its internal files and learned this loan, in the amount of \$889,106, had been issued to acquire 124 S. 6th Street. Additionally through this process, the City discovered the adjacent properties located at 112 and 114 S. 6th Street were similarly acquired with HOME Program funds.

The chain of title for these properties is complex:

In 1989, the Agency formed a Parking Assessment District along Whittier Boulevard to alleviate current and further parking deficiencies in the downtown area. As part of this effort, in 1991 the Agency acquired the properties at 112-114 S. 6th Street. (Exhibit “G”, pp. 2; Exhibit “H”, pp. 1.) A search of Agency records did not reveal the exact date of acquisition, the funding source, or the acquisition cost.

On November 13, 2003, the Agency and Huntington Park CHDO, Inc. (“**Huntington Park**”) entered into a Memorandum of Understanding for the development of 25-28 affordable housing units at 112-124 S. 6th Street. (Exhibit “H”, pp. 1-2.) In furtherance of the project the Agency agreed to: (1) provide \$420,000 in HOME Program funds to Huntington Park for its acquisition of 124 S. 6th Street; (2) provide \$140,000 in HOME Program funds for first time home buyer assistance; and (3) transfer title of 112 and 114 S. 6th Street to Huntington Park for \$1. (*Ibid.*) Huntington Park subsequently acquired 124 S. 6th Street with the HOME loan and took title in its name. (Exhibit “I”, pp. 1.)

However prior to the Agency’s transfer of 112-114 6th Street, the parties negotiations concerning a development agreement for the project fell through. (Exhibit “I”, pp. 1-2.) Litigation ensued, which was settled in October 2006 with Huntington Park transferring title of 124 S. 6th Street to the Agency in exchange for a mutual waiver of costs. (Exhibit “I”, pp. 2-3.)

On December 27, 2006, the City purchased 112-114 6th Street from the Agency for \$925,000 in federal HOME Program funds in anticipation of constructing a multi-family housing project and parking structure. (Exhibit “J”, pp. 1-2; Exhibit “K”).

In March 2008, Agency staff realized the settlement agreement reached with Huntington Park improperly transferred title to 124 S. 6th Street to the Agency. (Exhibit “L”). Because HOME Funds were used to acquire the parcel, as opposed to Agency funds, title should have transferred to the City. To remedy this, on March 13, 2008, the Agency quitclaimed its interest in 124 S. 6th Street to the City. (Exhibit “L”, pp. 1; Exhibit “O”).

On July 23, 2008, the City transferred title to 112, 114, and 124 S. 6th Street back to the Agency at no cost, so the aggregate parcels could be incorporated into a low-income residential redevelopment project. (Exhibit “N”). The City also approved a \$1.3 million HOME Program Loan with the developer to develop the properties. (Exhibit “M”). The project ultimately fell through, with the developer unable to obtain financing to complete the project. Litigation ensued and the case was settled with the developer’s reimbursement of the \$1.3 million HOME Program loan. However as a remnant of the deal, title to the Housing Properties remains vested in the

Agency; even though the parties intended they be returned to the City if development was unsuccessful. (Exhibit “N,” pp. 1.)

The Dissolution Act defines “housing assets” as including “[a]ny real propert[ies]....that were acquired for low-and-moderate income housing purposes, either by purchase or through a loan, in whole or in part, *with any source of funds*.” Because federal HOME Program funds are restricted for affordable housing purposes, as are assets purchased with such funds, the Properties qualify as a “housing asset.”

The Successor Agency respectfully requests the Oversight Board approve the transfer of the Housing Properties to the City, such that the City may manage them in accordance with state and federal mandates. The Housing Properties serve as security for the HOME funds committed thereto, and thus have no residual value to taxing entities.

3) The Taylor Ranch Property

The Taylor Ranch Property (identified above) was included in the Plan as Property 1 and slated for transfer to the City as a “governmental purpose” property. (Exhibit “A”, pp. 5.) The Successor Agency’s plan for Taylor Ranch has not changed, but its inability to obtain a “finding of completion” has delayed this transfer. As such, the Successor Agency is requesting the Oversight Board approve the immediate transfer of Taylor Ranch to the City; as authorized by the Dissolution Act.

Title to the Taylor Ranch Property was original deeded to the City in 1972 (Exhibit “P”) and title remains vested in City (Exhibits “Q” and “R”). However, though formal title was never transferred, internal documents suggest the parcel was subsequently purchased by the Agency from the City in 1978. (Exhibit “S”).

The City has long had plans to develop the property with a Cultural Arts Center, and issued the 2009 Series A Tax Allocation Bonds in part for this purpose. (Exhibit “T” [Official Statement].) The Agency’s dissolution has stalled these efforts. Nonetheless, the northern portion of the property continues to serve as a public park, and the southern portion serves as a park-and-ride amenity associated with Montebello Bus Lines.

The Dissolution Act authorizes the transfer of “governmental purpose” properties – such as parks, libraries, etc. – to the appropriate jurisdiction. Given the current and future planned use of the property as a public park and Cultural Arts Center, the property satisfies this definition. Upon receipt of a “finding of completion,” the Successor Agency anticipates using remaining bond proceeds to complete the Cultural Arts Center.

4) Amendment to LRPMP

Should the Oversight Board approve transfer of the Housing Properties and Taylor Ranch, and assuming DOF similarly approved the transfers, there would no longer be a need for those properties to be included in the Successor Agency’s Long Range Property Management Plan. For this reason, staff has prepared a revised plan for the Oversight Board’s consideration reflecting the removal of these parcels (the “Revised Plan”). The Oversight Board’s approval of the Revised Plan would be contingent on DOF’s approval of the property transfers discussed

above. Should DOF deny any or all of the transfers, the property(ies) would be deemed included in the Revised Plan for disposition in accordance with the Original Plan.

RECOMMENDATION

It is staff's recommendation that the Oversight Board adopt the following resolutions:

- 1) A Resolution of the Montebello Oversight Board Transferring of Housing Assets from the Successor Agency to the City of Montebello as Housing Successor;
- 2) A Resolution of the Montebello Oversight Board Approving the Transfer of Governmental Purpose Property (Known as "Taylor Ranch") to the City of Montebello; and
- 3) A Resolution of the Montebello Oversight Board Approving an Amended Long Range Property Management Plan.

Exhibits:

Attachments to the OB staff report

Revised LRPMP

Resolutions

OVERSIGHT BOARD RESOLUTION NO. _____

**A RESOLUTION OF THE MONTEBELLO OVERSIGHT BOARD APPROVING THE
TRANSFER OF CERTAIN HOUSING ASSETS FROM THE SUCCESSOR AGENCY
TO THE CITY OF MONTEBELLO AS HOUSING SUCCESSOR**

WHEREAS, on February 1, 2012, the Community Redevelopment Agency of the City of Montebello (“Agency”) was dissolved by way of Assembly Bill (“AB”) 1x26 (as subsequently amended, the “Dissolution Act”) and the California Supreme Court’s decision in *California Redevelopment Association v. Matosantos* (2011) 53 Cal.4th 231;

WHEREAS, the Dissolution Act created the Montebello Successor Agency (“Successor Agency”) to effectuate the “winding down” of the Agency, and is a separate and independent public entity from the City of Montebello (“City”) which provides for its governance;

WHEREAS, as authorized by the Dissolution Act, the City to elected to serve as the Agency’s “housing successor” (“Housing Successor”), and thereby is authorized to retain and manage the “housing assets” and functions of the former Agency (Health & Safety Code § 34176);

WHEREAS, as of its dissolution, the Agency possessed three (3) parcels of real property that were acquired with federal HOME Program funds for development of affordable and low-and-moderate income housing, located at 112 (APN # 6349-005-901), 114 (APN # 6349-005-900), and 124 (6349-005-902) S. 6th Street, City of Montebello (the “Housing Properties”);

WHEREAS, the Dissolution Act defines “housing assets” as including any real properties that were acquired for low-and-moderate income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds;

WHEREAS, federal HOME Program funds and real property assets acquired therewith are restricted for affordable housing purposes;

WHEREAS, the Housing Properties were not included in the Successor Agency’s “housing asset list” previously approved by the Department of Finance pursuant to Health & Safety Code Section 34176;

WHEREAS, the Dissolution Act created the Montebello Oversight Board (“Oversight Board”) to oversee, review, and approve certain actions of the Successor Agency, and is authorized to direct the transfer of housing assets of the former Agency to the Housing Successor (Health & Safety Code § 34181(c)); and

WHEREAS, the Successor Agency desires to obtain Oversight Board approval to transfer the Housing Properties to the Housing Successor so that the properties may be used in compliance with federal and state requirements governing such assets.

NOW THEREFORE, THE MONTEBELLO OVERSIGHT BOARD HEREBY FINDS, DECLARES AND RESOLVES AS FOLLOWS:

SECTION 1. After consideration of staff presentations, reports, discussions, public comments, and other evidence presented, the Oversight Board hereby finds and declares that the foregoing recitals are true and correct and incorporated herein.

SECTION 2. The Oversight Board finds and declares that the requirements of Health & Safety Code Section 34181(f) have been satisfied, in that the Oversight Board has held a public meeting to consider the transfer of the Housing Properties to the Housing Successor, ten (10) days advanced public notice of said meeting was provided, and members of the public have been given an opportunity to comment on such matters.

SECTION 3. Based upon staff presentation, reports, discussions, public comments, and other evidence presented, the Oversight Board finds and declares that the Housing Properties constitute “housing assets” as defined in Health & Safety Code section 34176, and the Oversight

Board therefore approves their transfer to the Housing Successor in accordance with Health & Safety Code Section 34181(c).

SECTION 4. Successor Agency staff is hereby directed to provide notice of this Resolution to the California State Department of Finance (“Finance”) in compliance with Health & Safety Code Section 34179(h), and this Resolution and the actions approved hereby shall be subject to review by Finance pursuant to Health & Safety Code Section 34181(f).

SECTION 5. The Clerk of the Oversight Board shall certify to the passage and adoption of this Resolution, and it shall become effective immediately upon its approval.

PASSED, APPROVED and ADOPTED this 6th day of May, 2015.

Ernesto Hidalgo,
Vice Chairperson

ATTEST:

Secretary to the Montebello Oversight Board

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City of Montebello Oversight Board meeting held on the 6th day of May, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: